

Proposed Plan Change 1C: Water Allocation and Use to the Regional Plan: Water for Otago

Decisions of Council

Otago Regional Council resolved to adopt the recommendations of the Hearing Committee on Proposed Plan Change 1C: Water Allocation and Use at its meeting on 24 March 2010, as follows:

That Council:

- 1. Adopt the recommendations of the Hearing Committee on Proposed Plan Change 1C: Water Allocation and Use as its decision;*
- 2. Publicly notify its decisions on Proposed Plan Change 1C: Water Allocation and Use on Saturday 10 April 2010; and*
- 3. Notify submitters of its decision.*

All references to the recommendations of the Hearings Committee must now be read as being the decisions of Council in the following report.

This report presents the recommendations of the Hearing Committee to the Otago Regional Council on submissions and further submissions to Proposed Plan Change 1C (Water Allocation and Use) to the Regional Plan: Water for Otago.

Hearings Committee:

Councillor Duncan Butcher
Chairperson

Councillor Stephen Cairns

Councillor David Shepherd

Table of Contents

1	Introduction	1
2	Recommendations	3
	A Improve the water allocation framework to secure wider beneficial use of water	3
	B Clarify how proposals are assessed to secure wider beneficial use of water	7
	C Encourage collaborative approaches	13
	D Achieve a smooth transition from deemed permits on or before 1 October 2021	15
	E Other amendments	15
	F Other requests	17
	G Final recommendations	17
Appendix 1	Regional Plan: Water for Otago incorporating recommendations on Proposed Plan Change 1C: Water Allocation and Use	
Appendix 2	Recommendations on individual submissions	

Abbreviations

ORC	Otago Regional Council
Proposed plan change / plan change	Proposed Plan Change 1C: Water Allocation and Use to the Regional Plan: Water for Otago
RMA	Resource Management Act 1991
Water Plan	Regional Plan: Water for Otago

Introduction

The Water Plan was notified in February 1998 and made operative on 1 January 2004. The water allocation and use provisions enable the taking of both surface water and groundwater, subject to meeting the permitted activity standards, or by applying for resource consent. It has worked well to date, but some aspects need improvement to meet the challenges of the future.

Since 2006, ORC has been considering the best way to manage Otago's water resources into the future. An initial Water Forum was held in Cromwell in 2006, with those attending identifying a strong desire for local management of local water resources. Holders of deemed permits wanted security to take water beyond 2021, newcomers wanted to get better access to water, and people expressed different opinions about efficient water resource management. The Water Plan provided little guidance on these matters. ORC considered that cooperative approaches to water management offered a way forward which would also assist in making the transition from the old deemed permits and achieve the most efficient use of the water resource. This general thrust was supported at further public meetings in 2007, and a second Water Forum in 2008, where a preliminary draft of this plan change was released.

Proposed Plan Change 1C: Water Allocation and Use was prepared in response to these meetings. It was based on the operative plan's system of allocation and flow limits and it was intended to help achieve three outcomes:

1. Achieving a smooth transition from deemed permits to resource consents on or before 1 October 2021;
2. Achieving better collective community management of local resources for local communities; and
3. Securing wider benefits from water that is available for taking.

The Hearing Committee considered all requests made by submitters and further submitters on the proposed plan change, and examined the issues and opportunities around achieving these three outcomes in depth. Submitters' views have assisted us greatly in understanding the complexities around the allocation and use of water within Otago.

As a result of the submission and hearing process, our recommendations address four main matters. First, submitters identified a number of issues to do with primary allocation. The way in which consents are replaced is not well understood, which means that how the transition from mining privileges will occur is also not well understood. Second, issues were raised relating to connected groundwater, how it is identified and how the new planning framework affects existing consents. Third, a number of details relating to the assessment of consent applications require addressing. Fourth, the new direction for community management of water was, at times, misinterpreted.

We propose to address these matters by:

- Clarifying the allocation frameworks for surface water and groundwater;
- Providing holders of groundwater consents similar protections to those available for surface water consents when applying for new consents;
- Clarifying that the rate, volume, timing and frequency of taking are the key parameters for assessing what water has been taken in the past, and describing what water may be taken in future;
- Adding new permitted activity rules for the use of water where consent to take has been granted already;
- Clarifying that every effort must be made to reduce water wastage;
- Clarifying the local water source and local use provisions;
- Allowing for future growth in certain circumstances;
- Adding new permitted activity rules that provide for water takes from shared intakes for domestic and stock drinking water purposes;
- Providing guidance on consent duration;
- Prohibiting applications to take surface water or connected groundwater from primary allocation in excess of the relevant limit; or for groundwater, in excess of the aquifer's maximum allocation volume;
- Clarifying the roles, functions and membership of water management groups;
- Making other amendments to clarify particular matters, standardise terms and address consequential matters;

In addition, the Council will need to provide good information on what is expected in an application to take water, how co-operative water management may be achieved, and options for making the transition from deemed permits. As a whole, the changes clarify and strengthen the Water Plan, enable more flexible approaches to day to day water management and provide greater certainty when those wanting water apply for new consents. Consequently, there is a greater likelihood of achieving the three desired outcomes of the proposed plan change.

Our recommendations follow. The italicised reference relates to the marked up copy of the proposed plan change (showing the proposed plan change as a result of these recommendations) which is attached as Appendix 1. A full breakdown of our recommendations on individual submissions is attached as Appendix 2.

Recommendations

A Improve the water allocation framework to secure wider beneficial use of water.

The changes that we are recommending to the water allocation framework address the first two matters raised by submitters. Surface water and connected groundwater resources are allocated from within primary and supplementary allocation limits. Groundwater which has less connection to surface water is allocated from within a maximum aquifer quantity. We propose to improve the allocation framework as follows:

A1 State that the water management system will be integrated:

- a) Use the term ‘integrated water management’, rather than ‘integrated catchment management’. Integrated catchment management is often associated with management of both land use and water, and the focus of this plan change is on the management of the water resource in terms of allocation and use.

Section 6.4 *Integrated water management*
Section 6.4 *Index to policies in 6.4*

A2 Include connected groundwater takes within primary allocation:

- a) Amend the definition of primary allocation in Policy 6.4.2 to include connected groundwater. The notified plan change proposed allocating connected surface water against primary allocation. However, it did not address how the primary allocation limit would be calculated as a result of the change. Consequently, in catchments where no new primary allocation is available (where Policy 6.4.2(a)(ii) or (b)(ii) applies), those taking connected groundwater lawfully now are potentially excluded from reapplying for the same activity when their current consents expire. We consider that such consent holders should be afforded similar protection to that provided for holders of existing consents to take surface water from within primary allocation. Although this will increase primary allocation on paper in the short term, the actual effects of such groundwater taking will not change, as the taking of such connected groundwater is already occurring.

Policy 6.4.2 *Primary allocation*

- b) Retain the 100 metre default standard, as notified, for identifying groundwater that is sufficiently connected to surface water for the take to be managed as surface water (Policy 6.4.1A). Taking groundwater within 100 metres has substantially more effect on the connected perennial surface water body than taking from further away. Cumulatively, small takes may also have adverse effects on the connected surface water. While this distance is arbitrary, it applies for most Otago rivers and makes the Water Plan much easier to administer. If the groundwater is not connected, the groundwater allocation system applies (Policy 6.4.10A, discussed under A5 below).

- c) Amend all other references relating to connected groundwater takes. These are consequential amendments, needed for consistency.

Policy 6.4.1 *Surface water allocation system*
Policy 6.4.17 *Consent transfers retaining allocation status*
Rule 12.1.4.8 *Restricted discretionary activity considerations for surface water*

<i>Rule 12.2.3.1A</i>	<i>Restricted discretionary activity groundwater</i>
<i>Rule 12.2.3.4</i>	<i>Restricted discretionary activity considerations for groundwater</i>
<i>Section 12.2</i>	<i>Principal reasons for adopting groundwater rules</i>
<i>Method 15.8.1.1</i>	<i>Methodology for calculating consented 7-day take and assessed actual take</i>
<i>Schedule 2</i>	<i>Specified minimum flows</i>
<i>Schedule 3B</i>	<i>Groundwater takes for the purpose of community water supply</i>

A3 Clarify the provisions relating to primary allocation:

- a) **Enable the taking of surface water.** The first words of this policy give permission to take and use surface water, based on subsequent provisions within the Water Plan. It is appropriate to retain the concept of ‘enabling’ the use of surface water as this describes the purpose of the policy.

Policy 6.4.1 *Surface water allocation system*

- b) **Clarify which takes are not included within primary allocation.** The system of primary allocation is not applied to taking from the Clutha/Mata-Au and Kawarau Rivers, Lakes Dunstan, Hawea, Roxburgh, Wakatipu and Wanaka. Primary allocation does not apply to any take that immediately returns all of the take to the source water body, as set out in Policy 6.4.2. Nor does it apply to consents where the quantity taken is within any net flow augmentation under Policy 6.4.14. These have been implicit in the policy, and are now made explicit.

Policy 6.4.1 *Surface water allocation system*

Box above 12.1.4.2 *Note relating to restricted discretionary activities*

- c) **Clarify when primary allocation is available.** This is implicit in the operative plan and making it explicit avoids the risk of misinterpreting when primary allocation is available. It also ensures that existing consent holders are aware how the reference to Section 124 of the RMA applies. The glossary definition of primary allocation is also amended to refer only to the quantity of water established under this policy. There is no need to include the minimum flow policy references as primary allocation is not defined by minimum flows.

Policy 6.4.2 *Primary allocation*

Glossary *Definition of ‘primary allocation’*

Make consequential amendment to Policy 6.4.2B, which is deleted as it duplicates this concept.

Section 6.4 *Index to policies in 6.4 [deleted]*

Policy 6.4.2B *New consents from primary allocation [deleted]*

- d) **Add a new rule to prohibit any person other than the existing consent holder with primary allocation from applying for primary allocation for those catchments where Policy 6.4.2a)(ii) or (b)(ii) applies.** In these situations, only an existing consent holder with primary allocation will be able to apply for a new consent. This effectively means that Sections 124A to 124C of the RMA cannot apply, and there is no risk of another person being able to be granted consent ahead of the existing consent holder. Another person may only gain consent within primary allocation by transfer, which requires agreement with the existing consent holder. This is a strong constraint on the

pressure by users to take water down to the minimum flow, and accordingly reduces risk to instream values.

Rule 12.0.1.1 Prohibited activities

- e) **Add a new rule to prohibit an application to take water as primary allocation that would cause the catchment primary allocation of the catchment to exceed the relevant limit.** In practice, no new consents have been granted that would lead to the relevant primary allocation limit being exceeded. Where primary allocation for the catchment is already fully allocated, any further taking may be considered as supplementary taking, and may be allocated against the next available supplementary allocation block. This is a strong constraint on the pressure by users to take water down to the minimum flow, and accordingly reduces risk to instream values.

Rule 12.0.1.2 Prohibited activities

- f) **Clarify the intent of the suite of the three policies relating to reducing unutilised primary allocation over time.** As unutilised allocation is clawed back, and this may take some time, the supplementary minimum flow may be reduced and this will enable wider access to the water resource.

Policy 6.4.2 Primary allocation

Policy 6.4.2A When a primary allocation take will be no more than under an existing consent

Policy 6.4.2AA When actual taking reflects supplementary allocation taking

- g) **Clarify when allocation to a new primary allocation consent will be no more than under an existing consent.** In catchments where no new primary allocation is available (Policy 6.4.2(a)(ii) or (b)(ii) applies), which is normally because of historical over-allocation, water allocated under a new consent will be based on the amount of water actually taken over the preceding five years. This recognises variability in taking each year, for example because of changes in climate, crop or pasture type.

Policy 6.4.2A When a primary allocation take will be no more than under an existing consent

Make consequential amendments to the policy title, list of restricted discretionary activity considerations and information required to be supplied with consent applications.

Section 6.4 Index to policies in 6.4

Rule 12.1.4.8 Restricted discretionary activity considerations for surface water

16.3.1.4C Information requirement

- h) **Add a new policy for assessing applications for new consents which replace existing consents to consider re-specifying water that is only able to be taken at flows above the first supplementary minimum flow as supplementary allocation in catchments where no new primary allocation is available** (Policy 6.4.2(a)(ii) or (b)(ii) applies). This means that those who are only able to take water during higher flows are classified with other consent holders who take water under similar conditions. It is intended that the consent holder will continue to be provided with water equivalent to that taken in the past.

Policy 6.4.2AA When actual taking reflects supplementary allocation taking

- i) **Amend the calculation for consented 7-day take and assessed actual take to include connected groundwater takes.** A further refinement is needed to this formula to ensure that connected groundwater takes are recognised, given that connected groundwater is now included within the primary allocation definition.

Method 15.8.1.1 Methods other than rules

A4 Clarify presentation of information for supplementary allocation:

- a) **Standardise presentation of information for the first supplementary allocation block for the Kakanui catchment** and show the formula for calculating further supplementary allocation blocks for this catchment.

Schedule 2B Schedule of supplementary allocation blocks and specific minimum flows

Make a consequential amendment to Method 15.8.1A.1.

Method 15.8.1A.1 Methodology for determining supplementary allocation

- b) **Make no further amendments to supplementary allocation provisions** as the Water Plan already recognises the benefits of taking water for all users. Any further changes to Schedule 2B must go through the full plan change process, and consent applications for full discretionary applications must be assessed in terms of the whole Water Plan, including Kai Tahu values.

A5 Improve provisions for allocation of groundwater:

- a) **Amend the allocation volume to ‘consented maximum annual take’.** The maximum allocation volume for the aquifer is based on the annual take and therefore it is more appropriate to restrict consent allocation to this volume.

Policy 6.4.10A Groundwater allocation system

Make no further amendment to the groundwater allocation volume. Land surface recharge is not being used to calculate groundwater allocation. This figure is too conservative as it disregards overall replenishment of the aquifer and unnecessarily limits groundwater allocation. Mean annual recharge is appropriate, based on the climate and groundwater resources of Otago, and a 50% default threshold is considered appropriate for both users and natural systems. The proposed National Environmental Standards on Ecological Flows and Water Levels are preliminary and would only apply if policies and rules were not in place within a regional plan.

- b) **Clarify when groundwater allocation is available.** This aligns the ground water provisions with those for surface water under Policy 6.4.2, refer to A3(c) above.

Policy 6.4.10A Groundwater allocation system

- c) **Clarify that while connected groundwater takes are allocated as surface water, any adverse effect of groundwater taking must still be addressed.** Policy 6.4.10A has been re-worded to clarify that, while connected groundwater takes are allocated as surface water and managed by minimum

flows, they are still groundwater takes and any adverse effects associated with groundwater taking generally must still be addressed.

Policy 6.4.10A Groundwater allocation system

- d) **Add a new policy for groundwater aligning with Policy 6.4.2A** which clarifies when allocation will be no more than under an existing consent.

Policy 6.4.10AA When a groundwater take will be no more than under an existing consent

Section 6.4 Index to policies in 6.4

- e) **Provide appropriate protection of allocation to existing groundwater consent holders**, aligning the groundwater allocation system with that for primary allocation under Policy 6.4.2. This ensures that those already taking water are not adversely affected by the change in policy when their existing consents need replacement.

Policy 6.4.10A Groundwater allocation system

Rule 12.0.1.3 Prohibited activities

Rule 12.2.3.1A Restricted discretionary activity groundwater

Rule 12.2.3.2A Restricted discretionary activity groundwater

Section 12.2 Principal reasons for adopting groundwater rules

- f) **Add a new rule to prohibit any application to allocate any quantity of water that exceeds the aquifer allocation limit.** This rule aligns with the consent application prohibitions for surface water primary allocation.

Rule 12.0.1.4 Prohibited activities

- g) **Identify the ability to use alternative options to the Jenkins Equation for calculating stream depletion effect.** Schedule 5A provides straightforward calculations for many people to determine potential effects on surface water as the result of a groundwater take. Consent applicants should be able to use more sophisticated numerical groundwater flow models, should they choose. Provided that a robust methodology is used, the end outcome is the same - stream depletion effect is determined satisfactorily. The Hunt methodologies are more complex and are impractical to include in this schedule.

Schedule 5A Schedule of equations to determine stream depletion effects of the take of groundwater

B Clarify how proposals are assessed to secure wider beneficial use of water.

A number of submitters raised issues relating to the use of the policy and rule framework in assessing proposals, including consent applications. We have looked at these provisions in detail and considered the intent of the notified plan change. In particular, we have considered how the policies are applied to secure wider beneficial use of water – to achieve the most efficient use of the water resource. We propose to improve these provisions as follows:

B1 Improve the issue description:

- a) **Recognise that both consumptive and non-consumptive water uses are constrained by insufficient water supply.** The operative plan wording refers only to constraints for consumptive water uses.

Issue 6.2.2 Insufficient water supply

Make consequential amendments to references to consumptive use only where all water users will benefit from more water being made available.

Policy 6.4.0A Allocation for purpose of use
Policy 6.4.1 Surface water allocation system

B2 Improve the description of the quantity of water being taken:

- a) **Clarify that the rate, volume, timing and frequency of water taken are the key parameters** for assessing what water has been taken in the past, and describing what water may be taken in future. This information describes the pattern of water taking and provides vital information for assessing the consent application.

Policy 6.4.2A When a primary allocation take will be no more than under an existing consent

Make consequential amendments to the relevant rules and information requirements.

Rule 12.1.3.1 Controlled activity surface water
Rule 12.1.4.8 Restricted discretionary activity considerations for surface water
Rule 12.2.2A.1 Controlled activity groundwater
Rule 12.2.3.4 Restricted discretionary activity considerations groundwater
16.3.1.1 Information requirement
16.3.1.4C Information requirement

B3 Improve take and use provisions:

- a) **Add new permitted activity rules and explanations for existing consents to take water which permit the use of water taken.** The consent to use water was implicit within the take consent, and this is now made explicit to more clearly meet the provisions of Section 14(3) of the RMA 1991. It is likely that any adverse effects relating to the use were adequately addressed through the take consent.

Rule 12.1.2.0 Permitted activity surface water
Rule 12.2.2.0 Permitted activity groundwater

Make consequential amendments to the principal reasons for adopting the rules under each section.

Section 12.1 Principal reasons for adopting surface water rules
Section 12.2 Principal reasons for adopting groundwater rules

- b) **Amend the wording for take and use of water for community water supplies listed in Schedule 1B.** This was left out inadvertently. The date (28 February 1998) cannot be deleted from this rule as this issue was not considered as part of this plan change.

Rule 12.1.3.1 Controlled activity surface water
Rule 12.2.2A.1 Controlled activity groundwater

- c) **Make consequential amendments** to standardise other relevant 'take and use' provisions.

Policy 6.4.17 Consent transfers retaining allocation status
Rule 12.2.2.4 Permitted activity groundwater
Rule 12.2.2.5 Permitted activity groundwater
Rule 12.2.2.6 Permitted activity groundwater
Rule 12.2.2A.1 Controlled activity groundwater

B4 Limit water wastage:

- a) **Clarify the issue description and examples of inefficient or inappropriate water use practices.** The focus is on minimising water wastage. The examples illustrate the issue, as wastage constrains opportunities for wider use of water.

Issue 6.2.3 Constraints on wider use of water

- b) **Clarify that every effort shall be made to reduce water wastage.** The intention of the policy is to drive efficient taking and use of water. Rather than placing the focus on a list of practices, it is more important to focus on the outcome – that reasonable efforts are being made to avoid water wastage. The appropriateness of any land use within the catchment is not addressed in this plan change.

Policy 6.4.0A Allocation for purpose of use

Make consequential amendments to the list of controls and restricted discretionary activity considerations and information required to be supplied with consent applications.

Rule 12.1.3.1 Controlled activity surface water

Rule 12.1.4.8 Restricted discretionary activity considerations for surface water

Rule 12.2.2A.1 Controlled activity groundwater

Rule 12.2.3.4 Restricted discretionary activity considerations for groundwater

16.3.1.3 Information requirements

- c) **Delete the adjective ‘intended’ from ‘purpose of use’.** The additional word is not needed because ‘intended’ and ‘purpose’ have the same meaning.

Policy 6.4.0A Allocation for purpose of use

Make consequential amendments where this phrase has been used.

Section 6.1 Introduction

Issue 6.2.3 Constraints on wider use of water

Section 6.4 Index to policies in 6.4

Policy 6.4.17 Transfer of consent

- d) **Clarify that consent holders may benefit from any further efficiencies in water use that they are able to gain during the life of the consent.** This provides an incentive for the consent holder to get the most from water taken, provided the taking remains within consented conditions.

Policy 6.4.0A Allocation for purpose of use

Policy 6.4.2A When a primary allocation take will be no more than under an existing consent

B5 Give preference to local source and local use:

- a) **Clarify the policy intention to promote and give preference to local use of local water.** The policy and explanation are re-worded to better express how the ORC will give consideration to whether the source of water applied for is the most appropriate, given the proposed location of use. The applicant provides an assessment of alternative water sources, relative to the scale of their application. It does not guarantee local sources for local uses, but it should lead to a situation where the ORC is able to achieve greater efficiency in the overall allocation of the water resource. The policy does not define local

use, as this is best done on a case-by-case basis; nor does it give preference to particular uses, an option which was considered but not pursued in preparing this plan change. Water may be exported from a catchment once local needs are met.

Policy 6.4.0C Local source and local use

- b) **Clarify what costs and benefits are to be compared.** The applicant must show that they have considered other possible sources of water and can explain why this is the preferred source. The scale of analysis is appropriate to the scale of the application.

Policy 6.4.0C Local source and local use

Make consequential amendment to the information required to be supplied with consent applications.

16.3.1.4A Information requirements

- c) **Amend the permitted activity rules to allow for domestic needs and animals for drinking water.** This change allows takes for domestic needs and animal drinking water. The permitted volume reflects that of other permitted activities. There is no need to refer to takes under Section 14(3)(b) RMA, as the Act applies anyway.

Rule 12.1.2.1 Permitted activity rule surface water

Rule 12.2.2.1 Permitted activity rule groundwater

B6 Allow for future growth:

- a) **Allow for reasonably foreseeable future growth as part of the purpose of use.** While it is inefficient to secure more water than is needed, the nature of some uses is that they may reasonably need more water in future. Where opportunities for future growth have already been planned and there is a community mandate for such growth, such as when a territorial local authority's Long Term Council Community Plan provides for such growth, it is reasonable to recognise the potential for growth and need for more water at some time in the future.

Policy 6.4.0A Allocation for purpose of use

- b) **Recognise that water demand may change in future.** While local demand may be satisfied now, water may be used elsewhere. However, such water may be required for local use in the future. In such situations, a shorter duration consent may be appropriate.

Policy 6.4.19 Duration of consent

- c) **Allow for growth of registered community drinking water supplies in certain circumstances.** In catchments where no new allocation is available, some allowance for planned growth may be acceptable, as discussed in B6(a) above.

Policy 6.4.2A When a primary allocation take will be no more than under an existing consent

Policy 6.4.10AA When a groundwater take will be no more than under an existing consent

B7 Ration when there is not enough water:

- a) **Clarify how rationing regimes are proposed and approved, and what consents are covered by them.** If the Council is to enforce the rationing regime, it must have approved it initially. It is important to clarify that a rationing regime may be prepared by a water allocation committee, a water management group or the Council, and the regime will clearly identify which consents it covers. Any such consent will include a condition requiring that it will be exercised in accordance with the approved rationing regime.

Policy 6.4.13 Suspension of takes by Council approved rationing regime

Make consequential amendments to the policy title and restricted discretionary activity considerations.

Section 6.4 Index to policies in 6.4

12.1.4.8 Restricted discretionary activity considerations for surface water

12.2.3.4 Restricted discretionary activity considerations for groundwater

The plan change does not address imposing water restrictions on consents to take water for community supply.

B8 Provide further guidance on consent duration:

- a) **Re-instate and re-draft the policy to provide guidance on consent duration** (Policy 6.4.19). The consent term should reflect the purpose of use. Where a short term use is proposed, a short-term consent is appropriate. Where more is known about the water resource, the risk of adverse effects being unforeseen is reduced and longer consent terms may be appropriate. We recognise that the future is uncertain, and that those proposals which use best practice and offer flexibility to respond to change warrant longer terms for consent duration. The RMA also requires recognition of the value of investment in infrastructure.

Policy 6.4.19 Consent duration

Make consequential amendments to the policy title and information requirements for consent applications.

Section 6.4 Index to policies in 6.4

16.3.1.4D Information requirements

B9 Restrict taking to allow exercise of another water permit:

- a) **Reinstate the discretion to restrict taking under a water permit to allow the exercise of another water permit.** Policy 5.4.3 gives priority to avoiding adverse effects on existing lawful uses and existing lawful priorities for the use of lakes, rivers and their margins. In some situations, water permits may need to be subservient to other water permits to ensure that existing lawful uses and priorities are provided for. There is no need for a further policy in Chapter 6 (Policy 6.4.21) to address this matter.

Rule 12.1.4.8 Restricted discretionary activity considerations for surface water

Rule 12.2.3.4 Restricted discretionary activity considerations for groundwater

B10 Address Welcome Creek and Waitaki catchment water allocation provisions:

- a) **Amend the primary allocation minimum flow for Welcome Creek to reflect findings from further investigations made following the hearing.** Primary allocation for the creek catchment is already fully allocated. The

amended minimum flow figure of 600 litres per second provides near optimal habitat for fry and juveniles of all three salmonid species present in Welcome Creek. It more closely reflects the natural flow of the creek, in the absence of augmentation through irrigation practices. Consent holders will not be disadvantaged as they are currently required to adhere to a minimum flow of 700 litres per second.

Schedule 2A Welcome Creek

Make consequential amendments to the relevant policy and rule provisions referring to Welcome Creek and Schedule 2A.

Policy 6.4.2 Primary allocation
Policy 6.4.5 Application of minimum flows
Rule 12.1.4.2 Restricted discretionary activity surface water
Rule 12.1.4.4A Restricted discretionary activity surface water
Rule 12.1.6.2 Non complying activity Welcome Creek
Method 15.8.1.1 Methods other than rules
Schedule 2B Schedule of supplementary blocks and specific minimum flows

- b) Incorporate provisions from the Waitaki Catchment Water Allocation Regional Plan within the main rule framework and make related consequential changes.** This simplifies the plan.

Policy 6.4.2 Primary allocation
Rule 12.1.4.2 Restricted discretionary activity surface water
Rule 12.1.4.3 Restricted discretionary activity surface water
Rule 12.1.4.5 Restricted discretionary activity surface water
Rule 12.1.4.6 Restricted discretionary activity surface water
Rule 12.1.4.7 Restricted discretionary activity surface water
Rule 12.2.3.2A Restricted discretionary activity groundwater
Rule 12.2.4.1 Discretionary activity groundwater

B11 Clarify provisions for taking from the Clutha/Mata-Au, Kawarau and 5 lakes

- a) Clarify that consented water takes from the Clutha/Mata-Au and Kawarau Rivers and five lakes are discretionary** and therefore also subject to the wider provisions of Chapter 5 on natural and human use values. Some concerns raised by submitters are addressed there, and do not need to be repeated in Chapter 6.

Policy 6.4.1 Surface water allocation system

- b) Amend the rule for taking connected groundwater within 100 metres of the Clutha/Mata-Au or Kawarau Rivers, or the five lakes by adding new standards to adverse effects on any lawful take or any water body.** This rule permits substantial takes of groundwater which, if not restricted, may have adverse effects on lawful takes or other minor water bodies. If the take does have an adverse effect, it no longer meets the permitted activity standards and resource consent must be applied for.

Rule 12.2.2.4 Permitted activities groundwater

B12 Improve provisions for the management of groundwater:

- a) Clarify the wording relating to maintenance of artesian pressure in confined aquifers** as this more accurately states the environmental outcome sought.

Issue 6.2.3 Constraints on opportunities for wider use of water

Policy 6.4.10C Maintenance of artesian pressure
Section 6.4 Index to policies in 6.4

Make no amendment to address interference from existing poorly constructed bores as this plan change does not address this issue.

- b) **Clarify the explanation of the calculation for bore interference for confined and unconfined aquifers.** This is a minor technical change, which links the words in the schedule with the related diagram.

Schedule 5B Schedule of method for identifying groundwater takes potentially affected by bore interference

- c) **Delete the Enfield School Bore reference from Schedule 4** as it is no longer in operation and the Papakaio Aquifer is now managed as part of the North Otago Volcanic Aquifer. This is a minor change.

Schedule 4 Restrictions on the exercise of permits to take groundwater

- d) **Correct Rule 12.2.2A.1 and the principal reasons adopting this rule to refer to groundwater community water supplies listed in Schedule 3B.** A control to allow for any residual flow at the point of take is added, as most of these takes are of connected groundwater. It is appropriate to align the controls for surface and connected groundwater.

*Rule 12.2.2A.1 Controlled activity groundwater
Section 12.2 Principal reasons for adopting groundwater rules*

C Encourage collective community management of local resources for local communities.

C1 Encourage collaborative approaches:

- a) **Identify further benefits of shared consents**, such as optimising the benefits from shared investment in water infrastructure, or reducing the need for Council involvement in water rationing. This is a high level policy and its intention is to give more control to locals for managing water use on a day to day basis. The group may benefit from any or all of the features identified in this policy. There is no need to include reference to catchment-based programmes, as Policy 5.4.13 on community initiatives includes such programmes.

Policy 6.4.0B Promotion of shared use and management of water

Make a consequential amendment to Appendix 2A.

Appendix 2A Water management groups

- b) **Clarify that water management groups are voluntary and not limited to consent holders.** Voluntary membership is a key feature as it enables groups to form in ways that meet member needs as they are members by choice, not compulsion. A group may change over time to meet member needs, and it may also manage consents on behalf of consent holders, or hold the consents itself. Membership is not limited to consent holders.

Policy 6.4.12A Water management groups

- c) **Approve the establishment of water management groups.** There was some confusion around how water management groups are formed, how they differ from water allocation committees and who grants consents. Water allocation committees are appointed as committees of the Council and have the sole function of water rationing. A group is formed from members of a community and it may undertake many more functions than rationing. The group sets itself up, but if it wishes to take advantage of the opportunities afforded by the Water Plan, it must meet certain standards (identified in Appendix 2A). If these standards are met, the Council will approve the group. The Council is still the consent authority.

Policy 6.4.12A *Water management groups*
Policy 6.4.0B *Promotion of shared use and management of water*

Make consequential amendments to Method 15.2.2.1 and Appendix 2A.

Method 15.2.2.1 *Water allocation committees and water management groups*
Appendix 2A *Water management groups*

- d) **Require that where consents are to be co-operatively managed with other consents, this is made a condition of the consents.** This ensures that each consent holder is aware of the arrangements made about how all of these consents would be managed when the consent was granted, and that these arrangements can be enforced.

Rule 12.1.4.8(xi) *Restricted discretionary activity considerations for surface water*
Rule 12.2.3.4(vii) *Restricted discretionary activity considerations for groundwater*

- e) **Add a new method to facilitate responses to local water needs and scope strategic options for the development of new infrastructure.** This will broaden the support that Council already offers to deemed permit holders (Method 15.7.1) to the wider community. The Council will support the community by providing information on options for grouping consents together under water management groups. A range of ways is possible for moving consents to the water management groups. As 2021 approaches, timing of consent applications becomes much more critical for catchments where no new allocation is available. Holders of mining privileges will also need to plan this transition well in advance of 2021. Information on options now will help ensure a smooth transition.

15.2.3.2 *Liaison with water users*
15.2.3 *Principal reasons for adopting*

- f) **Delete references to water management groups exercising delegated powers as an agent of the Council.** It is clear from submissions that the relationship between the Council and a water management group should not involve the group becoming an agent of the Council. While the group may take initial action to address any breach of consent condition under its management control, its role is to record information and report it to the Council. The Council's responsibility is to take enforcement action.

Policy 6.4.12A *Water management groups*
Appendix 2A *Water management groups*

C2 Promote shared water infrastructure:

- a) **Clarify that opportunities for storage are for surface water storage.**
Groundwater is better stored within its aquifer.

Policy 6.6.0 Development of shared water infrastructure

D Achieve a smooth transition from deemed permits on or before 1 October 2021.

D1 Address the mining privilege transition policies:

- a) **Confirm deletion of Policy 6.4.20.** This plan change addresses the transition from mining privileges on or before 1 October 2021. There are no situations where the Council would perpetuate a mining privilege priority beyond this date, so there is no reason to retain this discretion. A group may choose to re-create the priority system in some other form amongst its members beyond 2021, but it will not be imposed by the Council through resource consent condition. Until 1 October 2021, the Council will continue to note on any consent granted where there are mining privileges in a catchment. Enforcement of priority entitlements remains a civil matter outside of the RMA until that date. Re-instatement of the discretion to restrict taking to allow exercise of another permit is already addressed under recommendation A.10, above.

Policy 6.4.20 Deleted

- b) **Amend Appendix 2 to clarify that Section 124 of the Act applies when application is made for a new resource consent to replace a deemed permit that expires on 1 October 2021.** This is a minor change which provides some protection to the existing consent holder while a decision is made on an application for a new consent for the same activity.

Appendix 2 Mining privileges in respect of water (deemed permits)

D2 Provide additional guidance on transition options:

- a) **Make information available on options to move from mining privileges to new water permits** under the Resource Management Act. Holders of mining privileges are understandably concerned about changing from the historic system of water rights conferred under earlier legislation to the new system of water management under the Resource Management Act. In the process of listening to submitter concerns, a number of matters were raised which we consider are better addressed by making information available rather than changing the plan. These include identifying options for structuring water management groups and for making the transition to new resource consents. Method 15.7.1 (Methods and strategies for deemed permits) already provides for this to happen. It is important to note that this information will be prepared.

Policy 6.4.0B Promotion of shared use and management of water

E Other Amendments

E1 Make other minor or consequential amendments:

- a) **Make minor amendments** to improve readability of the plan change.

All sections

- b) **Standardise terminology** to ensure that it is used consistently throughout the plan change.

All sections

- c) **Merge the Schedule 2B provisions into one table.**

Schedule 2B *Schedule of supplementary blocks and specific minimum flows*

- d) **Re-name the Palmerston community water supply to include the Blue Mountain community water supply, and the Kauru water supply as Kauru Hill, as these are their correct names.** There is no change to the quantities being taken by these scheduled takes.

Schedule 1B *Water supply values*

- e) **Include reference to the Water Conservation (Mataura) Order 1997.** Part of the Mokoreta River catchment (which is covered by this order) falls within the Otago region and it is appropriate to identify this in the chapter on the legislative and policy framework. The regional plan must not be inconsistent with a water conservation order.

2.2.5 *Water conservation orders and notices*

Make consequential amendments to give effect to the Water Conservation (Mataura) Order 1997 by adding a new policy to Chapter 5 and reference in Chapter 11.

Policy 5.4.5A *Water Conservation (Mataura) Order 1997*
Chapter 11 *Water Conservation Orders*

Do not incorporate a full copy of the Water Conservation (Mataura) Order as a separate schedule. Appropriate reference is now made in the Water Plan. Such detailed information does not need to be in the Water Plan and it is already a large document.

Make consequential amendments by deleting Schedule 11 Water Conservation (Kawarau) Order and Schedule 14 (Lake Wanaka Preservation Act) as it is inappropriate to include some examples of these types of statutory mechanisms and not others.

Schedule 11 *Water Conservation (Kawarau) Order 1997*
Schedule 14 *Lake Wanaka Preservation Act 1973*

Make consequential amendments to delete references to Schedules 11 and 14.

Policy 5.4.5 *Water Conservation (Kawarau) Order*
Policy 8.5.2 *Prohibition of dam erection*
Section 12.3 *Principal reasons for adopting 12.3*
Section 13.5 *Principal reasons for adopting 13.5*

- f) **Delete the definitions for new and replacement consents** as the policies and rules have been re-drafted without them. The definition for resource consent remains as defined in the RMA.

Glossary *Definition of resource consent*

- g) Amend the sixth paragraph of Section 6.1 Introduction and add a seventh paragraph**, relocated from Policy 6.4.1A, to more accurately reflect the intent of the chapter.

Section 6.1

Introduction

Policy 6.4.1A

Groundwater connected to surface water

- h) Make any other consequential or minor amendment necessary** to give effect to this plan change

All sections

F Other Requests

- F1 Make no further amendment to address any other request.** We have carefully considered all other requests made by submitters, and general comments opposing the proposed plan change. Some requests are addressed elsewhere in the Water Plan, some relate to consent procedures and do not need to be included in the Water Plan, and some introduce new issues which this plan change does not address.

No further amendment is needed because of these requests or general opposition, as they do not assist us in more effectively addressing the three core issues relating to wider beneficial use of water, collective community management and the smooth transition from mining privileges.

We have also noted those submissions which offer general support for the proposed plan change. We consider that the amendments improve the notified proposal.

G Final Recommendations

- G1 That the Council adopt Proposed Plan Change 1C (Water Allocation and Use) to the Regional Plan: Water for Otago as amended by the Hearing Committee in Appendix 1 to this report.**
- G2 That the Council publicly notify the release of its decision on the proposed plan change on Saturday 10 April 2010.**
- G3 That the Council inform submitters of the decisions made on their submissions and complete all other related formalities under Schedule 1 RMA.**